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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/878,013	06/08/2001	William J. Vojtasek	3602/105	4541
7590	07/13/2004		EXAMINER	
Marion P. Metelski, Esq. Amster, Rothstein & Ebenstein 21st Floor 90 Park Avenue New York, NY 10016			MENDEZ, MANUEL A	
		ART UNIT	PAPER NUMBER	
		3763		

DATE MAILED: 07/13/2004
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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No. 09/878,013 Examiner Manuel Mendez	Applicant(s) VOJTASEK, WILLIAM J.	
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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on _____.
 2a) This action is **FINAL**. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-58 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) _____ is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) 1-58 are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
6) <input type="checkbox"/> Other: _____ |
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DETAILED ACTION

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. **Claims 1-10**, drawn to a device having an interior cavity, a pivoting member located within the cavity, and means for canting the pivoting member, classified in class 604, subclass 192.
- II. **Claims 11-15**, drawn to a device having a housing having an interior cavity, a pivoting member located within cavity, the pivoting member further defining a slot communicating with the distal opening and having a dimension that is insufficient to permit forward movement of the needle therethrough, and means for canting, classified in class 604, subclass 110.
- III. **Claims 16-19**, drawn to a device comprising a housing having an interior cavity, a pivoting member located within the cavity, a distal wall defining a slot communicating with the distal opening and having a dimension that is insufficient to permit forward movement of the needle therethrough; and a spring disposed in the interior cavity of the housing, classified in class 604, subclass 198.
- IV. **Claims 20-31**, drawn to device having a housing having an interior cavity, a pivoting member located in the cavity, and means for canting the pivoting member about the needle and for preventing further movement of the needle when the needle tip is within the cavity and the needle is

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withdrawn from the distal opening of the pivoting member, classified in class 604, subclass 263.

- V. **Claims 32-38**, drawn to a device having a housing, a pivoting member located within the cavity and defining a slot communicating with the distal opening and having a dimension that is insufficient to permit forward movement of the needle, and means for canting the pivoting member about the needle and for preventing further movement of the needle when the needle tip is within the cavity and the needle is withdrawn from the distal opening of the pivoting member, classified in class 604, subclass 187.
- VI. **Claims 39-46**, drawn to a device having a housing, a pivoting member located within the cavity, a distal wall defining a slot communicating with the distal opening and having a dimension that is insufficient to permit forward movement of the needle therethrough; and a spring disposed in the interior cavity of the housing and defining an opening for permitting the needle to pass therethrough, a portion of the spring being canted about the needle, classified in class 604, subclass 162.
- VII. **Claims 47-58**, drawn to a device having a housing, a pivoting member located within a cavity, and a compressible member at least partially disposed between the needle and the pivoting member and compressed therebetween when the needle tip is located outside of the housing, classified in class 604, subclass 163.

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The inventions are distinct, each from the other because of the following reasons:

Inventions I-VII are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, inventions I-VII have separate utility in view of the structural differences highlighted above. See MPEP § 806.05(d).

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

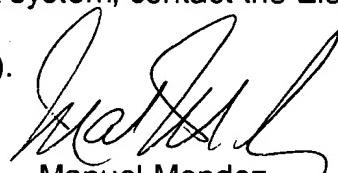
Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Manuel Mendez whose telephone number is 703-308-2221. The examiner can normally be reached on 0730-1800 hrs.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Brian Casler can be reached on 703-308-3552. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Manuel Mendez
Primary Examiner
Art Unit 3763

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